



Attorney Docket: 381TO/41092CO

PATENT

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: HIROSHI ONISHI ET AL.

Serial No.: 09/498,856

Group Art Unit: 3661

Filed: FEBRUARY 4, 2000

Examiner: T. M. ZANELLI

Title: AUTOMATIC TRANSMISSION CONTROL SYSTEM FOR AN AUTOMOBILE

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RESPONSE TO FINAL OFFICE ACTION

Box AF

November 5, 2001

Commissioner for Patents  
Washington, D.C. 20231

Sir:

The following remarks are submitted in response to the Final Office Action dated June 5, 2001, regarding the above-referenced patent application.

The application has been objected to under 37 C.F.R. §3.73(b) as lacking evidence of the right of the Assignee to take action. In response to this ground of objection, submitted herewith is a copy of the Assignment for the parent application Serial No. 09/064,765, of which the present application is a continuation. This Assignment is recorded at Reel Number 6468, Frame Number 0019. Accordingly, reconsideration and withdrawal of this ground of objection are respectfully requested.

Claims 12-14 (all claims of record) have been rejected under 35 U.S.C. §251 as being directed to an improper recapture of broadened claimed subject matter surrendered in the

application for the patent upon which the present reissue application is based. In response to this ground of rejection, in the Remarks which accompanied the Amendment submitted April 4, 2001, Applicant noted that the claims of the present application are directed to an invention which differs fundamentally from that in the issued patent. In particular, the patented claims recite "output torque estimation means" in a system for controlling selection of gear position in an automatic transmission, while the claims of the present application utilize first and second input torque estimating units.

In the Office Action dated June 5, 2001, the Examiner has noted that the terms "input" and "output" are relative in nature, and that the output torque of the engine could also be referred to as the input torque of the torque converter. While Applicant does not take issue with the latter proposition, it is submitted that the use of the phrases "input torque" and "output torque" in the claims of the present application and in those of the issued patent are not simply two different ways of characterizing the same quantity, as suggested. Rather, as noted previously, the claims differ fundamentally for the reasons set forth hereinbelow.

In the claims of the surrendered patent, an output torque of the automatic transmission is estimated, and the running load is estimated by using the output torque, etc. On the other

hand, the claims of present reissue patent application (hereinafter "reissue claims") recite that an input torque of the automatic transmission is estimated.

Although there is a correlation between the output torque of an automatic transmission and the input torque of the transmission, these two quantities are basically different. For example, when the rotation ratio between the input axis and the output axis of the automatic transmission is 1:1, the input torque is equal to the output torque. However, when the rotation ratio between the input axis and the output axis is 1:2, the input torque of the transmission is equal to one-half the output torque. Thus, the input torque and the output torque are not identical, and their use in the claims of the present application and those of the issued patent, respectively, are not simply equivalent characterizations of the same quantity.

More specifically, in the claims of the surrendered patent, an output torque  $T_o$  (1023) in Figure 10 is estimated, and a running load  $T_l$  (1028) is estimated with the estimated output torque  $T_o$  and others. In Claim 12 of the present application, the first input torque  $T_{t1}$  (1014) of Figure 10 and the second input torque  $T_{t2}$  (1019) of the same figure are estimated. Thus, in the claims of the surrendered patent, a construction of element 110 of Figure 10 is the main subject matter, while in Claim 12 of the present invention, a construction of element 108 of Figure 10 is the main subject matter. Accordingly, the

claims of the present invention do not simply constitute a broadening of the subject matter claimed in the issued patent. Rather, they focus on a different feature of the disclosed invention, which was not claimed in the issued patent, through an oversight.

Claims 13 and 14 of the present application comprise the same construction as that of Claim 12 of the present application. Accordingly, the latter claims differ from the surrendered patent for the same reasons set forth above.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #381TO/41092CO).

Respectfully submitted,



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